

1 Q Now, and I suppose that included some of the
2 problem-case broadcasters, too?

3 A Well, we included everybody because I think in my
4 experience with the Renewal Branch and throughout, there
5 were opportunities where there were bad actors, I think as
6 in every industry. And I had the occasion to oversee the
7 preparation of designation orders. So I think my experience
8 with broadcasters does ride the wide spectrum.

9 Q Given your unique background, Mr. Bowman, how
10 would you describe your sense of what the character
11 qualifications of a licensee ought to be?

12 A Well, the character issue has always been, in my
13 view, the very essence of a -- of a broadcaster. And I felt
14 that way when I was at the Federal Communications Commission
15 and I -- I feel that way now. If the Commission is to have
16 any ability to control licensees, and particularly today
17 when a lot of different of these regulatory policies are
18 going to certification, it's important that character play
19 upon the role.

20 And I've always viewed it as honesty, integrity,
21 trustworthiness, those characters -- characteristics I think
22 that -- that really make up the core character of a person.
23 And these characteristics have always been very important to
24 the Commission.

25 Q Now, Mr. Bowman, did there come a time when you

1 left the Commission's employ?

2 A I joined the National Association of Broadcasters
3 in January of 1984.

4 Q And in what capacity?

5 A At that time, Senior Vice President and General
6 Counsel of the NAB.

7 Q Have you held that position since that time?

8 A I think the title has changed. Several years
9 later, I became an Executive Vice President and General
10 Counsel; and this last June, Executive Vice President for
11 Law and Regulatory Policy, but always basically for the
12 same job, and that is overseeing the NAB's legal activities.

13 Q You are the single legal officer at the NAB?

14 A Yes.

15 Q Very briefly, just to complete your background,
16 have there been other ancillary positions you've held in
17 your career?

18 A I served I believe it was between 1981 and 1982 as
19 an adjunct professor of law at Delaware University here in
20 Washington for their winter program. I also have served on
21 the board of directors of BroadCap which is a minority --
22 nonprofit organization to fund minority broadcasters. I
23 served on that board since 1984.

24 I was also a member of the Federal Communications
25 Bar Association Executive Committee for two years. I

1 believe about 1986 to '88. And I was a member of the
2 American Bar Association's forum on communications law for
3 several years in the mid-'80s.

4 Q Now, as the single legal officer of the NAB, can
5 you give us a very brief description, first, of what the NAB
6 is.

7 A We are a trade association. And I guess we call
8 it the major trade association representing radio and
9 television broadcasters. And our goal and mission really is
10 two-fold. Number one, it's representation of the broadcast
11 industry. And we represent radio stations from the smallest
12 and largest groups, television stations and the major
13 networks. So our number one goal is representation of these
14 -- of our industry before the FCC, Capitol Hill and the
15 courts.

16 And number two, and sometimes equally as
17 important, is providing information to our memberships. We
18 are a full service organization. In addition to the
19 representation, in addition to the information, we also
20 provide our -- our members with a wide variety of services
21 including research, including engineering and technical
22 advice.

23 Q And on your watch, in your bale of wick, what kind
24 of -- what kind of publications and legal advice to you give
25 to the industry?

1 A As I said, the representation is certainly the
2 most important. But almost as important in my view is
3 providing information. And we provide almost -- depending
4 upon any change in regulatory policy, counsel memos which
5 are basically restatements of the law to our members. We
6 every so often provide a legal guide which is a major
7 publication which gives members and non-members the ability
8 to look up all different types of law including Commission
9 law, anti-trust law, so on and so forth.

10 We participate in the NAB convention and provide
11 panels that are designed to provide our information to our
12 members on various regulatory policies. And we participate
13 in various stated broadcast associations, panels, so on and
14 so forth, to try to provide the state associations not only
15 with a regulatory update, but also how to comply with
16 commission law.

17 Q How many members does the NAB have?

18 A We have about 5,000 radio members and about 1,100
19 TV members and all of the major radio and television
20 networks.

21 Q And how is the NAB governed?

22 A We have -- the staff in Washington really is
23 designed to provide our board with -- with advice and
24 guidance where appropriate. The NAB is really run or
25 governed by a board of directors. And we have a radio board

1 which consists of members who are elected from districts and
2 also appointed. And we also have seats on our board for
3 increased minority and female representation.

4 On the television side, we have an elected TV
5 board. And the TV board members are not elected from
6 districts. They are elected at large. And we also have
7 provision in our bylaws to achieve representation of
8 minorities, females, the various other trade associations
9 representing broadcasters such as the independent stations,
10 so on and so forth.

11 And then the -- both boards elect a joint board
12 chairman who is actually the person who directs the policy
13 and activities of the association. And then each board
14 elects a chairman and vice chairman. And that eventually
15 becomes our executive committee which meets every two months
16 and provides direction for and policy advice for the staff
17 between board meetings. And our board meetings are held
18 twice a year, one in December -- one in January and one in
19 June.

20 Q Is election to the board a fairly competitive
21 process?

22 A It can be. It's a very, very prestigious
23 position. People who generally run certainly want to engage
24 in leadership in the radio and television industry. And
25 some elections are very competitive with numerous

1 candidates. Other elections may not be. But I would say
2 overall, it's -- a seat on the NAB board is certainly a
3 desirable thing, particularly if you are a broadcaster who
4 has some extra time and wants to provide leadership, wants
5 to provide some representative for the broadcast industry.

6 Q And of 5,000 radio members, how big is the radio
7 board? How many seats?

8 A The radio board is about 36 people. The
9 television board is about 22.

10 Q Now, Mr. Bowman, when did you first meet John
11 Dille?

12 A I met John when John first joined the NAB board at
13 the June board meeting in 1982. I was at that time Deputy
14 Chief of the Broadcast Bureau then. And John was a newly
15 elected board member from Indiana. And I met him at a
16 social occasion during that board meeting.

17 Q Did he ever appear before you while you were at
18 the FCC?

19 A I believe that in his capacity either as a
20 broadcaster or a board member, he may have come over to the
21 FCC on a number of occasions. But I continued to see John
22 at the June 1983 board meeting, as well.

23 Q Can you -- what can you tell us about the Dille
24 family and their reputation in the broadcasting industry?

25 A I suppose the thing that impressed me about John

1 in our initial meeting was two-fold. Number one was the
2 proud tradition of journalism through the newspaper and
3 through the broadcast stations.

4 And number two was that my wife accompanies me on
5 that first social occasion. And John was a rabid Notre Dame
6 fan. My wife went to Auburn. And for about -- since 1982 I
7 think anytime they meet, there is always this friendly
8 exchange of, particularly on my wife's part, wanting to make
9 sure that Notre Dame is doing well, particularly when Notre
10 Dame has a losing season.

11 But I was very impressed with John because of that
12 -- that tradition of broadcasting. I knew through friends
13 of mine at the NAB that there was a history of newspaper;
14 there was a history of broadcasting.

15 And I had occasion when I joined NAB in September
16 of 1984 to meet John's father, Jack. Jack was almost a
17 legend at the NAB because not only had Jack served as the
18 joint board chairman of the NAB, Jack also had served as the
19 chairman of the Newspaper Association of America.

20 And it was a great honor for me because Jack was
21 one of the founders of BroadCap. And the -- BroadCap was an
22 organization that was founded by broadcasters to provide
23 money, to provide expertise for minorities to enter
24 broadcasting.

25 And I've learned in my association with Jack and

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1 in addition to his activities at the NAB, at the Newspaper
2 Association and BroadCap that during the war, Jack had been
3 very instrumental as I recall in terms of training Afro-
4 American aviators in the Navy. And I enjoyed my association
5 with Jack and found him to be a most -- one of the most
6 incredible characters I've met.

7 Q Now, when you first came to the NAB in 1984, was
8 John Dille -- was Mr. Dille on the radio board at that time?

9 A Yes. John would have been starting I guess his
10 second term on the board.

11 Q And was Mr. Dille ever elected to the chairmanship
12 of the radio board?

13 A John was elected chairman from 1985 to 1986.

14 Q And has he ever served on the board since his term
15 expired back then?

16 A John was re-elected to the board in April of 1997.
17 And he attended the board meeting last June of 1997 here in
18 Washington. And I might add that since leaving as joint
19 board chairman, John also was very active in NAB aside from
20 board activities.

21 He served as a member of our Legislative Liaison
22 Committee which is a committee designed to make sure that
23 our relations -- grassroot relations with Congress are --
24 are active. And I saw John at virtually every single NAB
25 convention, radio convention from the time he left the board

1 until he was re-elected.

2 Q And during this long association that you've had
3 with Mr. Dille, did you ever form an opinion about his
4 honesty, integrity and character?

5 A Well, I think my -- my first opinion was a lasting
6 one; that John had and followed in a great tradition of
7 broadcasting. He appeared to me when I first met him as
8 being full of integrity, as being full of honesty and other
9 qualities.

10 I was impressed with John as a board member and as
11 an officer on the radio board I guess because some people
12 might approach that position for wanting power or for
13 wanting recognition in the broadcast industry. John never
14 needed that because he already had I think ample
15 opportunity. And I think he was looking for an opportunity
16 to share his knowledge, share his leadership ability with
17 his industry.

18 Q Is there any particular example that stands out in
19 your mind that exemplifies his character and his integrity?

20 A I've got two. One I would like to go into in a
21 little length was -- was the merger of the NAB with the
22 National Radio Broadcasters Association. The other was --
23 was John's ability I think to provide leadership in an area
24 that we called AM improvement.

25 And the AM industry had been steadily going down

1 hill for years, both in terms of quality; the interference
2 had picked up; the industry did not get something called AM
3 stereo which is something that would have put the AM
4 industry and probably the FM industry.

5 And when John was radio board chairman, the FCC
6 had a project, a rule-making underway called AM improvement.
7 And it was somewhat contentious. It had some very
8 controversial proposals such as permitting AM broadcasters
9 to use FM translators which are very low power FM
10 transmitters.

11 And John managed to take about 20 or 25 issues at
12 a board meeting that was not the easiest thing to run anyway
13 because given the great diversity in the radio industry,
14 given the great difference of opinion on some of these
15 issues, it managed to I think very succinctly develop a plan
16 for submission to the FCC that -- that was acceptable to the
17 radio board and yet was one that we viewed as being not only
18 acceptable to the staff, but also very meaningful.

19 And I think that -- that type of leadership does
20 not come from somebody who -- who sought that office for
21 power or glory or anything of that nature, but someone who
22 genuinely cares about the broadcast industry.

23 Q Now, the other issue that you mentioned was the
24 merger of the NAB and the NRBA. Tell us about that and why
25 you believe it reflected on Mr. Dille's character.

1 A The -- the NAB had been the dominant trade
2 association for many years. And I think starting in the
3 early '70s, there was a splinter group called the National
4 Association of FM Broadcasters. And there was a feeling on
5 the part of the radio industry that the NAB was dominated by
6 the television networks or the television industry and that
7 on the radio side, the board members were complacent, were
8 sort of run by larger broadcasters and small broadcasters
9 didn't count.

10 And in broadcasting, we refer to the sort of
11 smaller broadcasters as the mom-and-pop operations. This
12 NAFMB started as a splinter group and started to -- as an
13 opportunity for the smaller broadcasters to have a say or
14 have their own association. And through the years, it
15 developed into something quite different than when it
16 started.

17 It changed its name to the National Radio
18 Broadcasters Association, the NRBA, and sort of lost its
19 image as the mom-and-pop group, and took on a lot of
20 emerging group operators in radio. And keep in mind that in
21 those days, the groups were -- were limited because of the
22 Commission's national limits, local limits on -- on what any
23 one individual or company could own.

24 But some of these emerging groups joined the NRBA.
25 They became part of the leadership. And I think their

1 feeling was that the NAB really was not able to look forward
2 or think out of the box; that what they were looking for
3 were different ways -- and the main goal here was to achieve
4 radio deregulation which basically was the elimination and
5 the comparative renewal, and extending the renewal term
6 beyond the three years.

7 And the NRBA was very innovative. They were on
8 Capitol Hill. They were the first group to talk about a
9 paying for spectrum; in other words, paying an annual fee as
10 opposed to not paying the fee and being regulated. And
11 things had become pretty strained.

12 And I think there were members of the -- of the
13 NAB leadership that knew that the situation really couldn't
14 continue, that you couldn't have two different groups with
15 divergent viewpoints trying to lead the radio industry
16 through deregulation on Capital Hill.

17 And the NAB board decided that it would be
18 important to try to make overtures to the NRBA to try to
19 combine the operations. And that was done. And when John
20 was -- was chairman of the radio board, the overtures had
21 been made, contacts had been made. And it was decided, I
22 think by John more than anyone else, that the contacts
23 should be between the broadcasters and the broadcasters of
24 NRBA, and that the NAB staff including our president, Eddie
25 Fritz (phonetic), should not play a part in this.

1 And John moved forward. He conducted many, many
2 meetings with the leaders of the NRBA. And in fact, I think
3 the joke at the NAB was that some of the meetings were held
4 there. John not only approached this from a political point
5 of view -- and that is the importance of getting the
6 organizations united for political reasons and political
7 strength -- but John even had psychology charts and flow
8 charts.

9 And we would go into meetings after he left and we
10 would look at this chalk talk with arrows pointing and human
11 decency and everything else. And his goal I think was to
12 convince the leadership of the NRBA that the NAB was the
13 appropriate organization for them to belong to; that only
14 through the strength of the NAB could the radio industry
15 advance any issues, and let alone pursue deregulation. And
16 the merger did take place. And it took place, as I recall,
17 in 1986.

18 And selling the NRBA was only part of it through
19 because the NAB board as -- as I alluded to earlier, can be
20 very prestigious and people are elected to it. They spent
21 time and money to get elected to it. They get a little
22 fiefdom and so on and so forth.

23 Well, in order to make the merger work, there had
24 to be a phase-in period where members of the NRBA board came
25 onto the NAB board so that they had a feeling that they were

1 actually part of the leadership, so that they could make
2 sure that the transition took place in any orderly manner.
3 And I believe it started with four NAB members on our board
4 for one year, then three for the next year, then two, and
5 then it was eventually phased out.

6 But John not only had to convince the NRBA that
7 the merger was the appropriate thing, but he had to convince
8 the NAB board that enlarging the board was the way to do it.
9 And this was -- it was very difficult. And even after the
10 merger when I had to meet with the general counsel of the
11 NRBA who was not in-house -- he was a member of a law firm -
12 - there was a lot of resistance. And we were trying to work
13 out books. We were trying to work out money. And there was
14 constantly this idea that, "I don't think this was a good
15 idea." And I said, "Well, that's too bad because it's been
16 done. NRBA members are on the NAB board."

17 But I guess to illustrate, it was a very
18 contentious time. And I really personally have never felt
19 that anybody but a John Dille could have pulled that off
20 because it didn't take a flashy leader. It didn't take
21 somebody who was full of himself. It took somebody who had
22 a lot of integrity, who had a lot of desire to help the
23 industry to pull this all together.

24 And I have maintained ever since it happened that
25 without John Dille, that never would have happened. And had

1 that merger not taken place, I think the radio industry
2 would have never been able to accomplish what it did on
3 Capitol Hill, particularly with respect to the deregulation
4 and the ability to achieve greater consolidation.

5 Q Now, this -- did this happen while John was
6 chairman of the NAB board?

7 A Yes, radio board.

8 Q Radio board?

9 A Yes.

10 Q And to your knowledge, has he been elected to any
11 other industry boards or chairmanships?

12 A John was also elected chairman of an organization
13 called the Radio Advertising Bureau, the RAB. And I'm not
14 aware of anybody in the industry who has held both the
15 chairman of the NAB and chairman of the RAB.

16 Q Except for Mr. Dille?

17 A Except for John, yes.

18 Q All right. Mr. Bowman, the ultimate issue in this
19 case goes to Mr. Dille's reputation for truthfulness. And I
20 think it is unusual for anyone to have an opportunity to
21 address that issue, you know, even if he's a friend. And I
22 wonder if there is anything that you can add with respect to
23 his reputation for truthfulness.

24 A I guess, as we talked about earlier, I've met a
25 lot of broadcasters I think in my career. And I've met a

1 lot of people both inside and outside the FCC. And I've had
2 to deal with a lot of different people. I've had to deal
3 with different -- ever since becoming Deputy Chief of the
4 Broadcast Bureau, I had to deal with people on the eighth
5 floor of the FCC, legal assistants, Commissioners.

6 At the NAB, I've dealt with probably 15 different,
7 in my 15 years, boards of directors, members of our
8 executive committee. And I've always sort of prided myself
9 as being able, number one, to pick out a phoney and, number
10 two, to pick out a true leader with great credibility. And
11 I felt that way about John Dille almost initially after I
12 met him.

13 My association with him at the NAB became even
14 closer after John became chairman of the radio board because
15 it's one thing to deal with a board member who you might see
16 twice a year and at a convention. Radio board people you
17 deal with quite often in terms of actual face-to-face
18 meetings, on the telephone on issues.

19 And I don't think in my experience I've met a
20 person that I admired as much or who I thought as much about
21 or of in terms of integrity, in terms of trustworthiness, in
22 terms of an unselfish desire to lead the broadcast industry
23 and to lead his own company. And I feel very -- very
24 strongly about that. And I think my initial reaction to
25 John has been reinforced almost daily throughout our

1 relationship.

2 Q Mr. Bowman, I've really got just one more thing to
3 ask you. Your background, given the positions you've held
4 at the FCC and the position you've held now continuously for
5 about 15 years as a single legal officer as the industry's
6 principal trade association, seems to me would put you in a
7 position where broadcasters would be asking you to appear on
8 their behalf either in proceedings or to push applications
9 or to advance a point of view to help their stations. This
10 must happen to you fairly frequently.

11 A We get quite a few calls from broadcasters who are
12 either involved in court challenges or situations or
13 involved in rule-makings at the FCC. And it's been our
14 policy -- not only mine, but the NAB policy -- not to
15 participate in an individual -- cases, individual situations
16 because we try to represent the industry on a broad
17 perspective, not individual stations.

18 Q Well, have you ever agreed to appear or to testify
19 on behalf of an applicant at an FCC hearing before?

20 A No, I haven't. And I think part of it is the fact
21 that I've had a policy since being at NAB that no one
22 participates in a court proceeding, administrative
23 proceeding without a subpoena. And I've been very strict on
24 that, although I will tell you that once -- once I talked
25 with you, Mr. Bernthal, and once I was aware of the

1 situation that John Dille was in with his company and the
2 allegations that were filed against him, I felt so strongly
3 that I went to my boss, Eddie Fritz, and told him that
4 despite what I always had as a policy, I personally felt so
5 committed to this that I felt that I wanted to come and do
6 what I could in this particular proceeding to help John.

7 And then I went to the chairman of our board,
8 explained the situation to him and told him the same story.
9 And both gave me permission to come. But it's a very rare
10 occurrence. It's the first time I've ever done it.

11 Q Mr. Bowman, is there anything else you would like
12 to add as we close this hearing? Is there anything else you
13 would like to add on Mr. Dille's behalf?

14 A I guess only to say that I really have not
15 familiarized myself, other than to read very quickly, the
16 charges in this proceeding against John. And my initial
17 reaction was one of shock. John was always in my view
18 someone who played by the rules. My staff informs me that
19 he was one that -- or people of his company would call the
20 NAB for various advice on various legal issues.

21 And when I read the charges and discussed them
22 with members of my staff, I was absolutely shocked that this
23 could happen to someone of John's character. And I guess I
24 can only say that I wouldn't be here if I didn't believe in
25 John Dille and that as far as I'm concerned, if John were to

1 tell me something, I would regard it as the truth.

2 MR. BERNTHAL: Thank you, Mr. Bowman. No further
3 questions.

4 JUDGE CHACHKIN: Anyone have -- else have any
5 questions of this Witness? You're excused, Mr. Bowman.

6 THE WITNESS: Thank you, Your Honor.

7 (Witness excused.)

8 MR. BERNTHAL: Your Honor, Pathfinder rests.

9 JUDGE CHACHKIN: All right. Before we close the
10 record, however, there are a number of exhibits. First of
11 all with the Bureau, are there any more exhibits that have
12 to be dealt with?

13 MR. SHOOK: We have one, Your Honor.

14 JUDGE CHACHKIN: Let's --

15 MR. SHOOK: It's Mass Media Exhibit 7.

16 JUDGE CHACHKIN: Seven?

17 MR. SHOOK: Yes, sir.

18 JUDGE CHACHKIN: Any objection?

19 MR. JOHNSON: I'm sure not, Your Honor. But let
20 me just find it first.

21 JUDGE CHACHKIN: All right.

22 MR. JOHNSON: No objection.

23 JUDGE CHACHKIN: All right. The exhibit will be
24 received. Now, there are a number of other exhibits which
25 have been identified which I assume are not being offered.

1 Is that correct?

2 (The document previously
3 marked for identification as
4 Mass Media Bureau Exhibit
5 Number 7 was received in
6 evidence.)

7 MR. WERNER: Your Honor, on behalf of Hicks
8 Broadcasting, there are --

9 JUDGE CHACHKIN: Well, I'm dealing first with the
10 Mass Media Bureau.

11 MR. WERNER: Oh, I'm sorry. I'm sorry.

12 JUDGE CHACHKIN: For instance, we have Exhibit --
13 Bureau Exhibit 4. That's a response to request for
14 admissions of fact and -- documents.

15 MR. SHOOK: Oh, Your Honor. I had thought that
16 was in but for the deposition -- excuse me. IT's a
17 response? We do offer 4 if it has not been offered before.
18 Sorry, Your Honor.

19 JUDGE CHACHKIN: Any objection?

20 MR. JOHNSON: No objection, Your Honor.

21 JUDGE CHACHKIN: All right. Bureau Exhibit 4 is
22 received. What about 7?

23 //

24 //

25 //

1 (The document previously
2 marked for identification as
3 Mass Media Bureau Exhibit
4 Number 4 was received in
5 evidence.)

6 MR. SHOOK: That we just offered and --

7 JUDGE CHACHKIN: Oh, 7 was just offered?

8 MR. SHOOK: Right. And you received it into
9 evidence.

10 JUDGE CHACHKIN: And then we have 14 which are
11 appointment calendar pages.

12 MR. SHOOK: Your Honor, it's our understanding
13 that Bureau exhibits 11, 14 and 20 are covered in Pathfinder
14 Exhibit 10 which is in evidence.

15 JUDGE CHACHKIN: All right. So 11, 14 and 20 are
16 not being offered.

17 MR. SHOOK: Correct. I believe there are only two
18 other exhibits, Your Honor, both of which we can withdraw,
19 the one being Exhibit 41.

20 JUDGE CHACHKIN: All right, 41 is not being
21 offered?

22 MR. SHOOK: Correct. And Number 71 is not being
23 offered.

24 JUDGE CHACHKIN: That's 71?

25 MR. SHOOK: Yes.

1 JUDGE CHACHKIN: Is not offered.

2 MR. SHOOK: I believe that covers every single
3 exhibit that we have identified.

4 JUDGE CHACHKIN: All right.

5 MR. HALL: What about Exhibit 13?

6 JUDGE CHACHKIN: Excuse me?

7 MR. HALL: Exhibit 13? Has that already been --

8 JUDGE CHACHKIN: I thought that was in -- 13?
9 Thirteen has been received. Now, are there any others where
10 certain pages were offered?

11 MR. SHOOK: There were initially, but I believe
12 all the pertinent pages have since been received.

13 MR. HALL: Well, with respect to your Number 20,
14 Mr. Shook, I don't believe that particular page of
15 Pathfinder's -- is the one -- is among the ones we offered.
16 We had offered 1 and 2.

17 MR. SHOOK: The first two pages?

18 MR. HALL: I don't believe we offered page 3.

19 MR. SHOOK: As it turns out, it strikes me as
20 cumulative of other information that we have. So even if
21 it's not a part of Pathfinder 10 that you offered, we don't
22 need to offer it.

23 JUDGE CHACHKIN: All right. Let's go to Hicks
24 now. Hicks I believe it -- are there exhibits?

25 MR. HALL: Let's see. Hicks Exhibit Number 3 we

1 withdraw.

2 JUDGE CHACHKIN: Number 3? Let me get that.

3 Number 3 is not being offered.

4 MR. HALL: Hicks Number 4 is duplicative of the
5 Mass Media Bureau, so we'll withdraw that as well.

6 JUDGE CHACHKIN: Number 4 is not offered.

7 MR. HALL: We withdraw Number 5.

8 JUDGE CHACHKIN: Number 4 -- Number 5 is not
9 offered.

10 MR. HALL: And that's I believe is all from the
11 ones --.

12 JUDGE CHACHKIN: What about Number 12?

13 MR. HALL: I believe that had come in, Your Honor.
14 If not, we offer it now.

15 JUDGE CHACHKIN: All right. Hicks Exhibit Number
16 12 will be received. I assume there is no objection. Is
17 there an objection?

18 (The document previously
19 marked for identification as
20 Hicks Exhibit Number 12 was
21 received in evidence.)

22 MR. SHOOK: No objection, Your Honor.

23 JUDGE CHACHKIN: All right. Now we've got to deal
24 with Pathfinder. They have a number of exhibits in there
25 that we have deal with one way or the other.

1 MR. HALL: There are some of the exhibits that
2 were once Hicks Broadcasting and when we narrowed it down,
3 we culled it out and said it was duplicative of Pathfinder.
4 So we might save on some of those, as well. Particularly
5 there are three if you want us to go through them first.

6 JUDGE CHACKIN: Well, we'll have to go through
7 them --

8 MR. HALL: All right. Fine.

9 JUDGE CHACKIN: -- because we just have to --

10 MR. HALL: -- that's fine --

11 JUDGE CHACKIN: -- decide on the record. First
12 of all, Exhibit 1 -- Pathfinder Exhibit 1. That has not
13 been dealt with.

14 MR. GUZMAN: Your Honor, Exhibits 1 through 5 of
15 Pathfinder have been identified and have been moved and
16 admitted by my records.

17 JUDGE CHACKIN: It has?

18 MR. GUZMAN: Yes.

19 JUDGE CHACKIN: All right. All right. That
20 takes care of that. Now, Number 6 has been identified; not
21 offered.

22 MR. GUZMAN: Correct, Your Honor. And we can
23 withdraw that at this time.

24 JUDGE CHACKIN: All right. Pathfinder Exhibit 6
25 is not being offered.

1 MR. GUZMAN: Right.

2 JUDGE CHACHKIN: Number 7?

3 MR. GUZMAN: The same for 7, 8 and 9, Your Honor.

4 JUDGE CHACHKIN: All right, 7, 8 and 9 are not
5 being offered.

6 MR. GUZMAN: Pathfinder Exhibit 10, Your Honor,
7 our records show that that has been offered and admitted.

8 JUDGE CHACHKIN: Wait a minute. Offered --

9 MR. GUZMAN: Pages 1 and 2, correct.

10 JUDGE CHACHKIN: Then only pages 1 and 2 have been
11 received. So you're not -- and some more pages?

12 MR. GUZMAN: There are further calendar pages that
13 are not of any great moment but barring any objection, we'll
14 move them now.

15 JUDGE CHACHKIN: Three, 4 and 5, any objection?

16 MR. SHOOK: No objection.

17 MR. HALL: No, Your Honor.

18 JUDGE CHACHKIN: All right. So the entire exhibit
19 is now received.

20 (The document previously
21 marked for identification as
22 Pathfinder Exhibit Number 10,
23 pages 3, 4 and 5 were received
24 in evidence.)

25 MR. GUZMAN: Pathfinder withdraws Exhibits Number

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1 11 and 12.

2 JUDGE CHACHKIN: All right. Number 11 is not
3 offered and Number 12 is not offered. Thirteen?

4 MR. GUZMAN: Thirteen has been offered and
5 admitted.

6 JUDGE CHACHKIN: Received -- 13 had been received;
7 14 has been received.

8 MR. GUZMAN: Pardon me, Your Honor. You said 14
9 has been received?

10 JUDGE CHACHKIN: Let's see. Fourteen -- 14 has
11 not been received.

12 MR. GUZMAN: Correct.

13 JUDGE CHACHKIN: Has not been offered.

14 MR. GUZMAN: Right. We'll withdraw that, Your
15 Honor.

16 JUDGE CHACHKIN: All right. Fourteen is not
17 offered; 15 has been received; 16 has been received; 17 has
18 been received; 18 has been received; 19 has been received;
19 20 has been received; 21 has been received; 22 has been
20 received; 23 has not been offered.

21 MR. GUZMAN: We'll withdraw that, Your Honor.

22 JUDGE CHACHKIN: All right. Pathfinder Exhibit 23
23 is not offered.

24 MR. GUZMAN: Right.

25 JUDGE CHACHKIN: Twenty-four has been -- has not

1 been offered.

2 MR. GUZMAN: Correct.

3 JUDGE CHACHKIN: That's the asset purchase
4 agreement.

5 MR. GUZMAN: We'll withdraw that. In fact, 24
6 through 29 --

7 JUDGE CHACHKIN: Yes.

8 MR. GUZMAN: -- none of which by my records have
9 been received, and we'll withdraw them all.

10 JUDGE CHACHKIN: All right. Pathfinder's Exhibits
11 24 through 29 are not offered.

12 MR. GUZMAN: Pathfinder Exhibit 30 by my records
13 has been admitted.

14 JUDGE CHACHKIN: Thirty has been received; 31 has
15 not been offered.

16 MR. GUZMAN: Right. We'll withdraw that, Your
17 Honor.

18 JUDGE CHACHKIN: If the Bureau wants any of this
19 material in, it should indicate it. Thirty-one is not
20 offered; 32 has been received; 33 has not been offered.

21 MR. GUZMAN: We'll withdraw that, Your Honor.

22 JUDGE CHACHKIN: All right. Pathfinder Exhibit 32
23 is not -- 33 is not offered. Thirty-four has not been
24 offered.

25 MR. GUZMAN: Correct. We'll withdraw that, Your

1 Honor.

2 JUDGE CHACHKIN: All right. Pathfinder Exhibit
3 Number 34 is not offered. Thirty-five is --

4 MR. GUZMAN: Our records show that that's a
5 duplication of Mass Media Bureau Exhibit 61.

6 JUDGE CHACHKIN: All right. So --

7 MR. GUZMAN: So there's no need to offer that.

8 JUDGE CHACHKIN: Pathfinder Exhibit 35 which is a
9 duplication is not offered. Thirty-six?

10 MR. GUZMAN: We can withdraw that, Your Honor.

11 JUDGE CHACHKIN: Thirty-six is not offered.
12 Thirty-seven has been received; 38 has not been offered.

13 MR. GUZMAN: We'll withdraw that, Your Honor.

14 JUDGE CHACHKIN: Thirty-eight is not offered.
15 Thirty-nine?

16 MR. GUZMAN: We'll withdraw that, as well.

17 JUDGE CHACHKIN: Thirty-nine is not offered.
18 Forty has been received; 41 has been received; 42 has been
19 received. Forty-three has not been offered.

20 MR. GUZMAN: Correct. We'll withdraw that, Your
21 Honor.

22 JUDGE CHACHKIN: Forty-three is not offered; 44
23 has been received; 45 has been received; 46 has been
24 received; 47 has not been offered.

25 MR. GUZMAN: Correct. And we'll withdraw that,

1 Your Honor.

2 JUDGE CHACHKIN: Forty-seven is not offered.

3 Forty-eight is not offered.

4 MR. GUZMAN: Right. We would offer that at this
5 time.

6 JUDGE CHACHKIN: Any objection? This whole
7 transcript of I guess the Court's ruling, is that what it --

8 MR. GUZMAN: This is a transcript of the Court's
9 ruling in the Hicks/Crystal litigation.

10 JUDGE CHACHKIN: Is it relevant?

11 MR. GUZMAN: It is in our understanding, Your
12 Honor. It shows that the Court found the FCC charges to
13 have been without merit as brought by Mr. Sachler.

14 JUDGE CHACHKIN: Well --

15 MR. HALL: More to the point, Your Honor, I think
16 -- discussed it with Mr. Sachler in terms of bias. It was
17 discussed with Mr. Sachler in examination; not the document
18 itself, but the --. So for completeness of the record, to
19 have the actual decision in --

20 JUDGE CHACHKIN: What's the Bureau's decision?

21 MR. SHOOK: Well, we think the relevance is
22 marginal. But at the same time, this was a decision
23 rendered and there is no doubt that it happened.

24 JUDGE CHACHKIN: All right. The exhibit will be
25 received. Forty-nine has been identified, has not been

1 offered.

2 (The document previously
3 marked for identification as
4 Pathfinder Exhibit Number 48
5 was received in evidence.)

6 MR. GUZMAN: We would offer it at this time, Your
7 Honor.

8 MR. HALL: I think it might be already in as part
9 of Hicks Exhibit 1.

10 UNIDENTIFIED SPEAKER: Which one, Doug?

11 MR. HALL: Hicks Exhibit 11.

12 MR. GUZMAN: It's similar. I don't know that it's
13 identical.

14 MR. HALL: Okay.

15 JUDGE CHACHKIN: Any objection to Pathfinder
16 Exhibit 49?

17 MR. HALL: No objection.

18 JUDGE CHACHKIN: Pathfinder Exhibit 49 is
19 received. Fifty has not -- has been identified and not
20 offered.

21 (The document previously
22 identified as Pathfinder
23 Exhibit Number 49 was received
24 in evidence.)

25 MR. GUZMAN: We'll withdraw that, Your Honor.

1 JUDGE CHACHKIN: That's the amendment to the joint
2 sales agreement. Do you want that in -- does the Bureau
3 want that in or --

4 MR. SHOOK: I believe that's already in as part of
5 the part of the Bureau's exhibits. But -- you don't think
6 it is? Well, then we would -- we would like this in if --
7 if it's not.

8 JUDGE CHACHKIN: Any objection to its receipt?

9 MR. HALL: No, Your Honor.

10 MR. GUZMAN: No, Your Honor.

11 JUDGE CHACHKIN: All right. Pathfinder Exhibit 50
12 is received. Fifty-one has been identified. Any objection
13 to 51 -- I mean, what do you want to do with it?

14 (The document previously
15 identified as Pathfinder
16 Exhibit Number 50 was received
17 in evidence.)

18 MR. GUZMAN: We'll withdraw 51, Your Honor.

19 JUDGE CHACHKIN: Fifty-one is not offered. If the
20 Bureau wants something in, please indicate. All right, 51
21 is not offered. Fifty-two?

22 MR. GUZMAN: We'll withdraw that.

23 JUDGE CHACHKIN: Fifty-two is not offered. Fifty-
24 three?

25 MR. GUZMAN: We would offer that at this time,

1 Your Honor.

2 JUDGE CHACHKIN: You what?

3 MR. GUZMAN: We would offer that at this time.

4 JUDGE CHACHKIN: What's the position of the
5 Bureau? This is the --

6 MR. SHOOK: Again, we think the relevance is
7 marginal. But at the same time, it is something that did
8 take place.

9 JUDGE CHACHKIN: Lots of things take place. The
10 question is the relevance.

11 MR. SHOOK: I understand it, Your Honor, this
12 has -- there -- the other side may be making some connection
13 with this document to a bias showing. But frankly, as I
14 said, we think it's marginal.

15 JUDGE CHACHKIN: But you're not objecting to it.

16 MR. SHOOK: It's a very weak objection, Your
17 Honor. If it makes them happy at this point -- it's a new
18 legal standard.

19 JUDGE CHACHKIN: It's going to take a little more
20 than that. Then Exhibit 53 is received then. I must say,
21 when I tried a case, I wasn't so generous. Pathfinder
22 Exhibit 53 is received.

23 (The document previously
24 identified as Pathfinder

25 Exhibit Number 53 was received

1 in evidence.)

2 MR. GUZMAN: Fifty-four we'll withdraw. And I
3 should state for the record that we're not happy.

4 JUDGE CHACHKIN: Pathfinder Exhibit 54 is not --
5 it's not offered. Fifty-five?

6 MR. GUZMAN: We'll withdraw 55.

7 JUDGE CHACHKIN: Pathfinder Exhibit 55 is not
8 offered. Fifty-six?

9 MR. SHOOK: Your Honor, I'm catching up to you.
10 But we would like 54 in.

11 JUDGE CHACHKIN: Fifty-four?

12 MR. SHOOK: Yes, sir.

13 JUDGE CHACHKIN: All right. It's like a bazaar.
14 If you want it in, we'll put it in. Fifty-four, do you want
15 -- do you want 54 in?

16 MR. SHOOK: Yes, Your Honor.

17 JUDGE CHACHKIN: All right. Fifty-four is
18 received. Fifty-five?

19 (The document previously
20 identified as Pathfinder
21 Exhibit Number 54 was received
22 in evidence.)

23 MR. GUZMAN: We'll withdraw that, Your Honor.

24 JUDGE CHACHKIN: What's the position of the
25 Bureau?

1 MR. SHOOK: That's fine.

2 JUDGE CHACHKIN: All right. Pathfinder Exhibit
3 Number 54 -- 55 is not offered. Fifty-six?

4 MR. GUZMAN: Withdrawn, Your Honor.

5 JUDGE CHACHKIN: What's the position of the
6 Bureau?

7 MR. SHOOK: That's fine.

8 JUDGE CHACHKIN: Pathfinder Exhibit 56 is not
9 offered. Fifty-seven.

10 MR. GUZMAN: Withdrawn.

11 MR. SHOOK: That's fine.

12 JUDGE CHACHKIN: Pathfinder Exhibit 57 is not
13 offered. Pathfinder Exhibit 58.

14 MR. GUZMAN: Your Honor, this is the summons and
15 complaint in the Kalamazoo action. We would offer it at
16 this time.

17 JUDGE CHACHKIN: I don't know what we're going to
18 do with all this in findings frankly. I don't see how it's
19 relevant to anything.

20 MR. GUZMAN: It goes to -- excuse me, this is -- I
21 misspoke. This is a complaint by the Crystal Group and Ed
22 Sachler against Rick Brown. It goes to motive and bias.

23 MR. HALL: It was discussed again during Mr.
24 Sachler's testimony about his financial outcome and the
25 outcome of his --

1 JUDGE CHACHKIN: Does the Bureau have any
2 objection?

3 MR. SHOOK: Well, Your Honor, I'm going to take a
4 real hard stand here. I think this is irrelevant. We
5 object.

6 JUDGE CHACHKIN: Sustained. Fifty-eight is not
7 received. Pathfinder Exhibit 59?

8 (The document previously
9 identified as Pathfinder
10 Exhibit Number 58 was rejected
11 for admission into evidence.)

12 MR. GUZMAN: We'll withdraw it, Your Honor.

13 JUDGE CHACHKIN: Pathfinder Exhibit 59 is not
14 offered. Pathfinder Exhibit 60?

15 MR. GUZMAN: Your Honor, we would move for the
16 admission of this document at this time.

17 JUDGE CHACHKIN: What's the position of the
18 Bureau?

19 MR. HALL: This document was produced or presented
20 to Mr. Sachler during his testimony and directly
21 contradicted something he said. It might be helpful to have
22 the document itself in the record.

23 JUDGE CHACHKIN: Is it just a letter notifying
24 about this hearing?

25 MR. HALL: No. It's a letter from his attorney to

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1 the attorneys for Mr. Brown in the Kalamazoo lawsuit.
2 Again, it has to do with his financial interest and the
3 outcome of this litigation. Again, the records -- purposes
4 it's a direct contradiction of the testimony he gave
5 previously. And he was presented with the document during
6 the hearing.

7 JUDGE CHACHKIN: Any objection?

8 MR. SHOOK: My recollection of that isn't quite as
9 clear. We do object.

10 MR. GUZMAN: Your Honor, the document asks the
11 question, "In light of the pending FCC proceeding" -- this
12 proceeding, whether Mr. Brown's counsel and Mr. Brown's firm
13 would like to settle the malpractice suit brought by Mr.
14 Sachler against them. Mr. Sachler was confronted with this
15 and --

16 JUDGE CHACHKIN: Well, if he testified about it,
17 we don't need this in evidence. The exhibit is not
18 received. Mr. Blasky (phonetic) didn't testify and I don't
19 know what he had in mind. Sixty-one, any objection? I
20 mean, what is your position?

21 (The document previously
22 identified as Pathfinder
23 Exhibit Number 60 was rejected
24 for admission into evidence.)

25 MR. GUZMAN: We'll withdraw that, Your Honor.

1 JUDGE CHACHKIN: Sixty-one is not offered. Sixty-
2 two?

3 MR. GUZMAN: We'll withdraw it, Your Honor.

4 JUDGE CHACHKIN: Sixty-two is not offered. Sixty-
5 three?

6 MR. GUZMAN: We'll withdraw.

7 JUDGE CHACHKIN: Sixty-three is not offered.
8 Sixty-four?

9 MR. GUZMAN: We'll withdraw.

10 JUDGE CHACHKIN: Sixty-four is not offered.
11 Sixty-five has been received; 66 has been received; 67 has
12 been received. Sixty-eight, what is your position?

13 MR. GUZMAN: We'll withdraw it, Your Honor.

14 JUDGE CHACHKIN: Sixty-eight is not offered.
15 Sixty-nine?

16 MR. GUZMAN: We'll withdraw, Your Honor.

17 JUDGE CHACHKIN: Sixty-nine is not offered.
18 Seventy has been received. Seventy-one, what is your
19 position?

20 MR. GUZMAN: We'll withdraw it. It's our
21 understanding that this is cumulative of Mass Media Bureau
22 Exhibit 15.

23 JUDGE CHACHKIN: All right. Pathfinder Exhibit 71
24 is not offered. Seventy-two.

25 MR. GUZMAN: We'll withdraw. It's our

1 understanding this is cumulative of Mass Media Bureau
2 Exhibit 1, page 32.

3 JUDGE CHACHKIN: Seventy-two is not offered.
4 Seventy-three.

5 MR. GUZMAN: We'll withdraw it, Your Honor.

6 JUDGE CHACHKIN: Seventy-three is not offered.
7 Seventy-four?

8 MR. GUZMAN: We'll withdraw.

9 JUDGE CHACHKIN: Seventy-four is not offered.
10 Seventy-five?

11 MR. JOHNSON: Judge, this is the chart -- both 75
12 and 78 I think are the charts that Mr. Watson drew during
13 his testimony which we have reduced and I think inserted in
14 your binder. Our records show that they were admitted. But
15 perhaps we neglected to move their admission at that time.

16 JUDGE CHACHKIN: All right. That's --

17 MR. JOHNSON: Seventy-five and 78, Your Honor.

18 JUDGE CHACHKIN: Seventy-five will be -- well, let
19 me make sure that it's a one page exhibit. Pathfinder
20 Exhibit 75 is a one page exhibit. And no objection?

21 MR. HALL: No objection.

22 JUDGE CHACHKIN: Seventy-five is being received.
23 And 76?

24 (The document previously
25 identified as Pathfinder

1 Exhibit Number 75 was received
2 in evidence.)

3 MR. GUZMAN: Seventy-six is the time line we were
4 using as a demonstrative aid.

5 JUDGE CHACHKIN: All right. So that is -- will
6 also be received and is identified as a one page exhibit and
7 received. And 77?

8 (The document previously
9 identified as Pathfinder
10 Exhibit Number 76 was received
11 in evidence.)

12 MR. GUZMAN: Seventy-seven is an exhibit we were
13 using as a demonstrative aid. It is a schedule of the Hicks
14 Broadcasting -- to Booth.

15 JUDGE CHACHKIN: All right. It's a one page. It
16 will be marked for identification and received as Pathfinder
17 Exhibit 77. And finally, 78 is also a one page exhibit.
18 That will be marked for identification and received as
19 Pathfinder Exhibit 78.

20 That takes care of all the exhibits I believe.
21 The only thing remaining at this time, I close the record in
22 this case. And we have to now set dates of findings and the
23 --. We'll go off the record for a minute.

24 //

25 //

1 (The documents previously
2 identified as Pathfinder
3 Exhibits Numbers 77 and 78
4 were received in evidence.)

5 (A discussion was held off the record.)

6 JUDGE CHACHKIN: Off the record there has been a
7 discussion concerning the date for filing for post-findings
8 and conclusions. And the following dates will apply: The
9 parties will file their post-findings and conclusions of law
10 by February 8th, 1999. And any reply shall be filed by
11 February 23rd, 1999.

12 (Whereupon, at 4:00 p.m. on Monday, November 9,
13 1998, the trial was concluded.)

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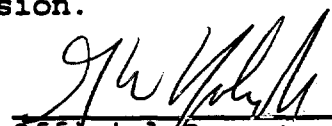
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HEARING DATE: November 9, 1998
LOCATION: Washington, DC

I hereby certify that the proceedings and evidence are contained fully and accurately on the tapes and notes reported by me at the hearing in the above case before the Federal Communications Commission.

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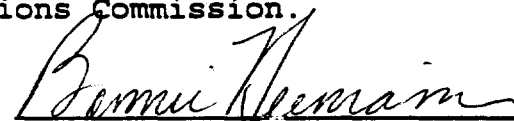


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